(4)

FILED
NOV 13 2006
OFFICE OF THE CLERK
SUPREME COURT, U.S.

No. 06-292

In The

Supreme Court of the United States

October Term, 2006

ARTHUR O. ARMSTRONG,

Petitioner,

vs.

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

PETITION FOR REHEARING

Arthur O. Armstrong, Pro se
8113 Pleasant Hill Road
Elm City, North Carolina 27822
(252)236-7912

Counsel for Petitioner

QUESTION PRESENTED

1. Whether the trial court Judge, William L. Osteen, erred when he denied plaintiff's motion for leave to file motion for reconsideration without due process of law.

2. Whether the trial court Judge, William L. Osteen, erred in denying plaintiff's timely and properly raised constitutional issue by denying plaintiff's motion for reconsideration without due process of law.

3. Whether the trial tribunal deprived plaintiff of rights, privileges and amenities secured by the federal constitution when district court denied plaintiff's motion for leave to file motion for reconsideration without due process of law.

SUPREME COURT OF THE UNITED STATES

ARTHUR O. ARMSTRONG 06-292
vs.
UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

Petitioner, Arthur O. Armstrong, for compelling reasons, respectfully, requests this Court for Rehearing, to review the Order/Decree of Judge William L. Osteen dated: May 8, 2006. The Order and Decree appealed from is described as follows:

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

ARTHUR O. ARMSTRONG	:	
v.	:	
UNITED STATES DISTRICT	:	ORDER
COURT FOR THE MIDDLE	:	
DISTRICT OF NORTH CAROLINA:		

AND NOW this 8th day of May, 2006, upon consideration of plaintiff's motion for Reconsideration and the Response of defendant, if any, it is hereby **ORDERED** and **DECREED** that plaintiff's motion be **GRANTED.**

BY THE COURT:

_____
WILLIAM L. OSTEEN, J.

Facts

The plaintiff failed to perfect the appeal in submitting the motion for reconsideration without submitting the accompanying order which provides for

the interlocutory order; thereby rendering the plaintiff's to the nonappealability of right of an interlocutory order granting plaintiff's motion.

Reasons Why Writ Should Issue

The interlocutory order makes it impractical for petitioner to proceed further in trial court; that irreparable harm will result to petitioner and will continue to result if petitioner's appeal is not perfected with the interlocutory order. Said Order and Decree directly involves a substantial question arising under the Fourth and Fourteenth Amendments to the Constitution of United States and under Article 1, Section 20 of the Constitution of the State of North Carolina, in that it deprives rights secured thereunder to the plaintiff by overruling plaintiff's assignment of error to the denial of his Motion for leave to file Motion for Reconsideration, thereby depriving plaintiff of his constitutional right not to be deprived of life, property, or liberty, without due process of law; nor be denied equal protection of the laws. This constitutional issue was timely raised in the trial tribunal by plaintiff's Motion for reconsideration prior to the trial of plaintiff. This constitutional issue was determined erroneously by the Court of Appeals.

WHEREFORE, petitioner respectfully prays that this Court issues its writ of certiorari to the United States District Court for the Middle District

of North Carolina and/or United States Court of Appeal, to review the Order/Decree above specified, upon error (Trial court committed reversible error in denying plaintiff's motion for leave to file motion for reconsideration.) assigned in the record on appeal constituted in accordance to the Federal Rules of Appellate Procedure.

Respectfully submitted this the 10th day of November, 2006.

/s/ Arthur O. Armstrong, Petitioner
Arthur O. Armstrong, Petitioner
8113 Pleasant Hill Road
Elm City, North Carolina 27822
252-236-7912

AFFIDAVIT OF ARTHUR O. ARMSTRONG

I swear of affirm under penalty of perjury under United States laws that the within and foregoing statements are true and correct (28 U.S.C. §1746.)

November 10, 2006.

/s/ Arthur O. Armstrong, Petitioner
Arthur O. Armstrong, Petitioner

OF COUNSEL:

ARTHUR O. ARMSTRONG, PRO SE
8113 PLEASANT HILL ROAD
ELM CITY, NORTH CAROLINA 27822
252-236-7912